

**Executive Summary – Enforcement Matter – Case No. 46217**  
**Vopak Terminal Deer Park Inc.**  
**RN100225093**  
**Docket No. 2013-0344-IWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

IWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Vopak Terminal Deer Park, 2759 Battleground Road (State Highway 134), Deer Park, Harris County

**Type of Operation:**

Bulk liquid storage transshipment terminal with an associated wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 21, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,640

**Amount Deferred for Expedited Settlement:** \$1,728

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$6,912

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 46217**  
**Vopak Terminal Deer Park Inc.**  
**RN100225093**  
**Docket No. 2013-0344-IWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 7, 2013

**Date(s) of NOE(s):** January 18, 2013

***Violation Information***

1. Failed to timely submit the discharge monitoring reports (“DMRs”) for the monitoring periods ending February 29, 2012 for Outfalls 001 and 002; April 30, 2012 for Outfalls 001 and 003; May 31, 2012 for Outfalls 001, 002, and 003; June 30, 2012 for Outfalls 001 and 002; July 31, 2012 for Outfall 001; and September 30, 2012 for Outfalls 001, 002, and 003, by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0002383000, Monitoring and Reporting Requirements No. 1].

2. Failed to submit complete DMRs for the monitoring periods ending January 31, 2012 for Outfall 001; March 31, 2012 for Outfalls 001, 002, and 003; and April 30, 2012 for Outfall 002, by the 20th day of the following month. Specifically, the DMRs did not include daily average flow and daily maximum flow results [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.1 and TPDES Permit No. WQ0002383000, Monitoring and Reporting Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent implemented the following corrective measures:

- a. By February 8, 2013, submitted the DMRs for the monitoring periods ending February 29, 2012 for Outfalls 001 and 002; April 30, 2012 for Outfalls 001 and 003; May 31, 2012 for Outfalls 001, 002, and 003; June 30, 2012 for Outfalls 001 and 002; July 31, 2012 for Outfall 001; and September 30, 2012 for Outfalls 001, 002, and 003; and
- b. By February 13, 2013, submitted the revised DMRs to include daily average flow and daily maximum flow results for the monitoring periods ending January 31, 2012 for Outfall 001; March 31, 2012 for Outfalls 001, 002, and 003; and April 30, 2012 for Outfall 002.

**Executive Summary – Enforcement Matter – Case No. 46217**  
**Vopak Terminal Deer Park Inc.**  
**RN100225093**  
**Docket No. 2013-0344-IWD-E**

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 30 days update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished including the timely submittal of complete, signed, and certified monthly DMRs; and
- b. Within 45 days, submit detailed supporting documentation including photographs, receipts, and/or other records demonstrating compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jennifer Graves, Enforcement Division,  
Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Colin Scott, General Manager, Vopak Terminal Deer Park Inc., P.O. Box  
897, Deer Park, Texas 77536

Dick Richelle, Director/President, Vopak Terminal Deer Park Inc., P.O. Box 897, Deer  
Park, Texas 77536

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	22-Jan-2013	<b>Screening</b>	5-Feb-2013	<b>EPA Due</b>	
	<b>PCW</b>	6-Mar-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Vopak Terminal Deer Park Inc.		
<b>Reg. Ent. Ref. No.</b>	RN100225093		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46217	<b>No. of Violations</b>	2
<b>Docket No.</b>	2013-0344-IWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jennifer Graves
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$4,500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	92.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$4,140
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Notes: Enhancement for four NOV's with dissimilar violations, three orders with denial of liability, and one order without denial of liability. Reduction for one notice of intent to conduct an audit.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$39  
Approx. Cost of Compliance \$700  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,640
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$8,640
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,640
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,728
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,912
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Screening Date 5-Feb-2013

Docket No. 2013-0344-IWD-E

PCW

Respondent Vopak Terminal Deer Park Inc.

Policy Revision 3 (September 2011)

Case ID No. 46217

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100225093

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 92%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with dissimilar violations, three orders with denial of liability, and one order without denial of liability. Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 92%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 92%

Screening Date 5-Feb-2013

Docket No. 2013-0344-IWD-E

PCW

Respondent Vopak Terminal Deer Park Inc.

Policy Revision 3 (September 2011)

Case ID No. 46217

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100225093

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002383000, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit the discharge monitoring reports ("DMRs") for the monitoring periods ending February 29, 2012 for Outfall Nos. 001 and 002; April 30, 2012 for Outfall Nos. 001 and 003; May 31, 2012 for Outfall Nos. 001, 002, and 003; June 30, 2012 for Outfall Nos. 001 and 002; July 31, 2012 for Outfall No. 001; and September 30, 2012 for Outfall Nos. 001, 002, and 003, by the 20th day of the following month, as documented during a record review conducted on January 7, 2013.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

70% of the permit requirement was met.

Adjustment \$24,750

\$250

## Violation Events

Number of Violation Events 13

322 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$3,250

Thirteen single events are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$6,240

This violation Final Assessed Penalty (adjusted for limits) \$6,240

# Economic Benefit Worksheet

**Respondent** Vopak Terminal Deer Park Inc.  
**Case ID No.** 46217  
**Reg. Ent. Reference No.** RN100225093  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$250	7-Jan-2013	30-Nov-2013	0.90	\$1	\$15	\$16
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$325	20-Mar-2012	8-Feb-2013	0.89	\$14	n/a	\$14

### Notes for DELAYED costs

The estimated cost to update operational guidance and conduct employee training to ensure that all monitoring records are properly maintained and all reporting requirements are met. Date required is the record review date. Final date is the expected date of compliance. The estimated cost to prepare and submit the DMRs (\$25 x 13 DMRs = \$325). Date required is the date the first DMR was due. Final date is the date the DMRs were submitted.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$575

**TOTAL**

\$30



Screening Date 5-Feb-2013

Docket No. 2013-0344-IWD-E

PCW

Respondent Vopak Terminal Deer Park Inc.

Policy Revision 3 (September 2011)

Case ID No. 46217

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100225093

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.1 and TPDES Permit No. WQ0002383000, Monitoring and Reporting Requirements No. 1

## Violation Description

Failed to submit complete DMRs for the monitoring periods ending January 31, 2012 for Outfall No. 001; March 31, 2012 for Outfall Nos. 001, 002, and 003; and April 30, 2012 for Outfall No. 002, by the 20th day of the following month, as documented during a record review conducted on January 7, 2013. Specifically, the DMRs did not include daily average flow and daily maximum flow results.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

70% of the permit requirement was met.

Adjustment \$24,750

\$250

## Violation Events

Number of Violation Events 5

351 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

Five single events are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$2,400

This violation Final Assessed Penalty (adjusted for limits) \$2,400

# Economic Benefit Worksheet

Respondent Vopak Terminal Deer Park Inc.  
Case ID No. 46217  
Reg. Ent. Reference No. RN100225093  
Media Water Quality  
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$125	20-Feb-2012	13-Feb-2013	0.98	\$0	\$8	\$9
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Estimated cost to prepare and submit revised DMRs (\$25 x 5 = \$125). Date required is the date the DMR was due. Final date is the date the revised DMRs were submitted.

Notes for DELAYED costs

The Economic Benefit for updating operational guidance and employee training is addressed in the Economic Benefit for Violation No. 1.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$125

TOTAL

\$9



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601178734, RN100225093, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN601178734, Vopak Terminal Deer Park, Inc.	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 19.27
<b>Regulated Entity:</b>	RN100225093, VOPAK TERMINAL DEER PARK	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 19.27
<b>Complexity Points:</b>	30	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	11 - Waste Management (Excluding Landfills)		
<b>Location:</b>	2759 BATTLEGROUND RD (STATE HWY 134) IN DEER PARK, HARRIS COUNTY, TX		
<b>TCEQ Region:</b>	REGION 12 - HOUSTON		

## ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER HG0629I

**AIR NEW SOURCE PERMITS** REGISTRATION 40132

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER HG0629I

**AIR NEW SOURCE PERMITS** AFS NUM 4820100248

**AIR NEW SOURCE PERMITS** REGISTRATION 77383

**AIR NEW SOURCE PERMITS** REGISTRATION 91326

**AIR NEW SOURCE PERMITS** REGISTRATION 95099

**AIR OPERATING PERMITS** PERMIT 1068

**AIR NEW SOURCE PERMITS** REGISTRATION 50085

**AIR NEW SOURCE PERMITS** PERMIT 466A

**AIR NEW SOURCE PERMITS** REGISTRATION 77743

**AIR NEW SOURCE PERMITS** REGISTRATION 80015

**AIR NEW SOURCE PERMITS** REGISTRATION 91347

**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 1010580

**WASTEWATER** PERMIT WQ0001731000

**WASTEWATER** PERMIT WQ0002383000

**IHW CORRECTIVE ACTION** SOLID WASTE REGISTRATION # (SWR) 33579

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 33579

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXP490351429

**POLLUTION PREVENTION PLANNING** ID NUMBER P00505

**WASTEWATER** EPA ID TX0030937

**WASTEWATER** EPA ID TX0084115

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXD000807982

**INDUSTRIAL AND HAZARDOUS WASTE** OTS REQUEST 36654

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER HG0629I

<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012	<b>Rating Date:</b>	09/01/2012
<b>Date Compliance History Report Prepared:</b>	February 05, 2013				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	February 05, 2008 to February 05, 2013				

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Jennifer Graves

**Phone:** (956) 430-6023

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |
| 3) If YES for #2, who is the current owner/operator?   | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)?                                     | N/A |
| 5) If YES, when did the change(s) in owner or operator occur?                                      | N/A |

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

1	Effective Date: 03/12/2009	ADMINORDER	2008-1205-AIR-E	(1660 Order-Agreed Order With Denial)
	Classification: Moderate			

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 466A/SPECIAL CONDITION I PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 1,044.30 pounds ("lbs") of volatile organic compounds were released when the Respondent failed to close the bypass valve on the circulation line at Loading Station 22, leading to the overfilling of the tank truck, resulting in an emissions event which began on February 21, 2008, and lasted for one hour (Incident No. 104029).

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 466A/Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, 4,753.50 lbs of Methyl Tertiary Butyl Ether were released when the Respondent failed to close a block valve on the pipeline which is directly connected to Tank 600 at the conclusion of a previous transfer, leading to the overfilling of the tank, resulting in an emissions event which began on March 11, 2008, and lasted for one hour and thirty minutes (Incident No. 104864)

- 2 Effective Date: 10/04/2009 ADMINORDER 2009-0532-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2350  
40 CFR Part 60, Subpart A 60.18  
40 CFR Part 63, Subpart A 63.11  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: S.C. 10 PERMIT  
Description: As owner and operator of the Plant, the Respondent is alleged to have failed to comply with the minimum net heating value of 300 British thermal units per standard cubic foot ("btu/scf") for Land Flare 900.
- 3 Effective Date: 02/07/2010 ADMINORDER 2009-1181-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special condition 1 OP  
Description: Failure to prevent an unauthorized emissions. Vopak failed to prevent an overflow of MTBE from storage tank T-405.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to submit a final record within two weeks after the end of a reportable emissions event.
- 4 Effective Date: 06/18/2010 ADMINORDER 2009-1338-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: General Terms and Conditions OP  
Description: Failed to submit annual compliance certifications and deviation reports within 30 days after the end of the reporting periods.  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.144(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Term and Condition 4(A)(ii) OP  
Description: Failed to demonstrate that the annual visible emissions observations for stationary vents were conducted by providing records of the annual observations upon request.  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(A)  
30 TAC Chapter 101, SubChapter F 101.201(b)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Term and Condition 2F OP  
Description: Failed to determine if unauthorized emissions during pilot flame outages and other spills and releases are reportable within 24 hours and create final records within two weeks.  
Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Term and Condition 2F OP  
Description: Failed to maintain complete records of non-reportable emissions events.  
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.562(e)(2)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition 4 PERMIT  
Special Term and Condition 18 OP  
Special Term and Condition 1A OP  
Special Term and Condition 1D OP  
Description: Failed to develop a written operation and maintenance plan that details corrective actions that will be taken when affected air pollution control and monitoring equipment exceed baseline parameters.  
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.567(j)(3)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition 4 PERMIT  
Special Term and Condition 18 OP  
Special Term and Condition 1A OP  
Special Term and Condition 1D OP  
Description: Failed to submit an annual report of the hazardous air pollutant ("HAP") control efficiency for affected sources.  
Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT BB 61.305(h)  
40 CFR Part 63, Subpart Y 63.567(i)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition 3 PERMIT  
Special Condition 4 PERMIT  
Special Term and Condition 15D OP  
Special Term and Condition 17G OP  
Special Term and Condition 18 OP  
Special Term and Condition 1A OP  
Special Term and Condition 1D OP  
Description: Failed to maintain records of vapor tightness tests for barges that are loaded and unloaded at the Plant.  
Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.354(a)  
30 TAC Chapter 117, SubChapter B 117.354(b)  
30 TAC Chapter 117, SubChapter H 117.9020  
5C THSC Chapter 382 382.085(b)  
Description: Failed to submit a NOx final control report for the applicable boilers at the Plant.  
Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: Special Condition No. 14 PERMIT  
Special Term and Condition 18 OP  
Description: Failed to operate the acetic acid scrubber with a water circulation rate of 11 gallons per minute.  
Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: General Terms and Conditions OP  
Description: Failed to obtain authorization for Storage Tank Vent Scrubber SCRV-926.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.144(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 1A OP

Description: Failed to demonstrate compliance with the visible emissions limits for gas flares by providing flare logs documenting flare observations.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT V 61.247(b)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 3 PERMIT

Special Term and Condition 18 OP

Special Term and Condition 1A OP

Description: Failed to submit complete fugitive monitoring reports on a semiannual basis.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 61, SubChapter C, PT 61, SubPT BB 61.305(f)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 3 PERMIT

Special Term and Condition 18 OP

Special Term and Condition 1A OP

Description: Failed to submit quarterly reports of benzene emissions from the benzene transfer operations at the Plant.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(B)  
30 TAC Chapter 106, SubChapter W 106.511  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 19 OP

Description: Failed to demonstrate compliance with the operational restrictions for the diesel powered firewater pump by providing records documenting the hours of operation.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 14 PERMIT

Special Term and Condition 18 OP

Description: Failed to maintain complete records of the acetic acid scrubber water circulation rate.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.121  
30 TAC Chapter 122, SubChapter C 122.210(a)  
5C THSC Chapter 382 382.085(b)

Description: Failed to include new emission units in Federal Operating Permit No. O-01068.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.136(b)  
5C THSC Chapter 382 382.085(b)

Description: Failed to correct or submit relevant facts within 60 days after discovering an error or deficiency in Federal Operating Permit No. O-01068.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112(d)(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Term and Condition 1A OP

Description: Failed to meet the control requirements for storage of VOCs for Tanks Nos. 613, 764, 907, 790, 520, and 915 by January 1, 2009.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)  
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.144(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 16F PERMIT

Special Term and Condition 18 OP

Description: Failed to demonstrate compliance with the VOC emission limits by providing monthly records of the calculated VOCs emissions from all storage tanks and loading operations.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 29 PERMIT

Special Term and Condition 18 OP

Description: Failed to maintain complete records of each tank roof landing.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent unauthorized emissions during Incident No. 125311.

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

#### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	February 20, 2008	(675262)
Item 2	March 20, 2008	(675263)
Item 3	April 18, 2008	(675264)
Item 4	May 19, 2008	(693578)
Item 5	June 15, 2008	(433928)
Item 6	June 20, 2008	(693579)
Item 7	July 01, 2008	(681719)
Item 8	July 17, 2008	(693580)
Item 9	August 18, 2008	(714876)
Item 10	September 23, 2008	(714877)
Item 11	October 20, 2008	(714878)
Item 12	November 19, 2008	(730774)
Item 13	December 18, 2008	(754009)
Item 14	January 19, 2009	(730775)
Item 15	February 20, 2009	(754006)
Item 16	March 19, 2009	(754007)
Item 17	April 02, 2009	(741279)
Item 18	April 20, 2009	(754008)
Item 19	July 08, 2009	(814016)
Item 20	July 17, 2009	(814017)
Item 21	August 20, 2009	(814018)
Item 22	December 16, 2009	(760511)
Item 23	December 21, 2009	(814022)
Item 24	January 20, 2010	(814023)
Item 25	February 22, 2010	(814015)
Item 26	February 26, 2010	(780664)
Item 27	March 22, 2010	(794836)
Item 28	March 26, 2010	(834146)
Item 29	April 22, 2010	(834147)
Item 30	May 10, 2010	(799002)
Item 31	May 20, 2010	(834148)
Item 32	June 21, 2010	(847272)

**Published** Compliance History Report for CN601178734, RN100225093, Rating Year 2012 which includes Compliance History (CH) components from February 05, 2008, through February 05, 2013.

Item 33	July 20, 2010	(861719)
Item 34	July 28, 2010	(842907)
Item 35	August 20, 2010	(868110)
Item 36	September 16, 2010	(875038)
Item 37	October 18, 2010	(882647)
Item 38	November 05, 2010	(850331)
Item 39	November 18, 2010	(889064)
Item 40	December 20, 2010	(897438)
Item 41	December 29, 2010	(885667)
Item 42	January 20, 2011	(903324)
Item 43	February 16, 2011	(910245)
Item 44	February 24, 2011	(877977)
Item 45	March 18, 2011	(917459)
Item 46	April 28, 2011	(928423)
Item 47	May 20, 2011	(939152)
Item 48	June 20, 2011	(946569)
Item 49	July 20, 2011	(953819)
Item 50	August 18, 2011	(960424)
Item 51	September 20, 2011	(966483)
Item 52	October 20, 2011	(972494)
Item 53	November 20, 2011	(978639)
Item 54	December 22, 2011	(985463)
Item 55	January 20, 2012	(991749)
Item 56	January 25, 2012	(940972)
Item 57	February 21, 2012	(999094)
Item 58	April 11, 2012	(1004621)
Item 59	April 27, 2012	(1011199)
Item 60	May 18, 2012	(1017554)
Item 61	June 20, 2012	(1025351)
Item 62	July 20, 2012	(1032691)
Item 63	August 21, 2012	(1039117)
Item 64	September 24, 2012	(1048068)
Item 65	December 14, 2012	(1045789)

#### E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1      Date:      03/01/2012      (970394)      CN601178734  
Self Report?      NO      Classification:      Minor  
Citation:      30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
5C THSC Chapter 382 382.085(b)  
FOP OP  
NSR PERMIT  
Description:      Failure to prevent the occurrence of open-ended lines. (Category C10)  
Self Report?      NO      Classification:      Minor  
Citation:      30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP OP  
Description:      Failure to conduct quarterly visible emissions observations. (Category C1)
  
- 2      Date:      04/03/2012      (995501)      CN601178734  
Self Report?      NO      Classification:      Moderate  
Citation:      30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 1 PERMIT  
Description:      Failure to prevent unauthorized emissions. (Category B13 violation)  
Self Report?      NO      Classification:      Minor  
Citation:      30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
5C THSC Chapter 382 382.085(b)  
Description:      Failure to submit initial notification of an emission event within 24 hours. (Category C3 violation)



3      Date:      06/25/2012      (1002675)  
 Self Report?      NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 101, SubChapter F 101.201(f)  
                  5C THSC Chapter 382 382.085(b)  
 Description:      Failure to submit requested records within the 14 day timeframe. (Category B3 violation)  
 Self Report?      NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 116, SubChapter B 116.115(c)  
                  5C THSC Chapter 382 382.085(b)  
                  Special Condition 1 PERMIT  
 Description:      Failure to meet the demonstration criteria for an affirmative defense for unauthorized emissions during an emissions event. (Category B13 violation)

4      Date:      06/27/2012      (1002672)      CN601178734  
 Self Report?      NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 101, SubChapter F 101.201(f)  
                  5C THSC Chapter 382 382.085(b)  
 Description:      Failure to submit requested records within the 14 day timeframe. (Category B3 violation)  
 Self Report?      NO      Classification:      Moderate  
 Citation:      30 TAC Chapter 116, SubChapter B 116.115(c)  
                  5C THSC Chapter 382 382.085(b)  
 Description:      Failure to meet the demonstration criteria for an affirmative defense for unauthorized emissions during an emissions event. (Category B13 violation)

**F. Environmental audits:**

Notice of Intent Date:      05/21/2010      (826618)  
 No DOV Associated

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
VOPAK TERMINAL DEER PARK  
INC.  
RN100225093**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2013-0344-IWD-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Vopak Terminal Deer Park Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a bulk liquid storage transshipment terminal with an associated wastewater treatment plant located at 2759 Battleground Road (State Highway 134) in Deer Park, Harris County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 23, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Six Hundred Forty Dollars (\$8,640) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid Six Thousand Nine Hundred Twelve Dollars (\$6,912) of the administrative penalty and One Thousand Seven Hundred Twenty-Eight Dollars (\$1,728) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
  - a. By February 8, 2013, submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending February 29, 2012 for Outfall Nos. 001 and 002; April 30, 2012 for Outfall Nos. 001 and 003; May 31, 2012 for Outfall Nos. 001, 002, and 003; June 30, 2012 for Outfall Nos. 001 and 002; July 31, 2012 for Outfall No. 001; and September 30, 2012 for Outfall Nos. 001, 002, and 003; and
  - b. By February 13, 2013, submitted the revised DMRs to include daily average flow and daily maximum flow results for the monitoring periods ending January 31, 2012 for Outfall No. 001; March 31, 2012 for Outfall Nos. 001, 002, and 003; and April 30, 2012 for Outfall No. 002.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to timely submit the DMRs for the monitoring periods ending February 29, 2012 for Outfall Nos. 001 and 002; April 30, 2012 for Outfall Nos. 001 and 003; May 31, 2012 for Outfall Nos. 001, 002, and 003; June 30, 2012 for Outfall Nos. 001 and 002; July 31, 2012 for Outfall No. 001; and September 30, 2012 for Outfall Nos. 001, 002, and 003, by

the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002383000, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on January 7, 2013.

2. Failed to submit complete DMRs for the monitoring periods ending January 31, 2012 for Outfall No. 001; March 31, 2012 for Outfall Nos. 001, 002, and 003; and April 30, 2012 for Outfall No. 002, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.1 and TPDES Permit No. WQ0002383000, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on January 7, 2013. Specifically, the DMRs did not include daily average flow and daily maximum flow results.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Vopak Terminal Deer Park Inc., Docket No. 2013-0344-IWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished including the timely submittal of complete, signed, and certified monthly DMRs, in accordance with TPDES Permit No. WQ0002383000; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of

Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Shaw  
For the Executive Director

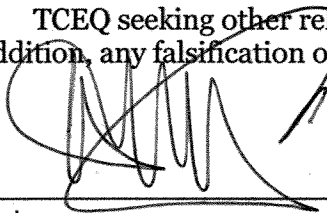
7/1/13  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

04/03/2013  
Date

COLIN SCOTT  
Name (Printed or typed)  
Authorized Representative of  
Vopak Terminal Deer Park Inc.

GENERAL MANAGER  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.